

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**WASHINGTON HARBOUR, SUITE 400**

**3050 K STREET, NW**

**WASHINGTON, DC 20007**

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

JOHN J. HEITMANN

DIRECT LINE: (202) 342-8544

EMAIL: jheitmann@kelleydrye.com

NEW YORK, NY  
LOS ANGELES, CA  
HOUSTON, TX  
AUSTIN, TX  
CHICAGO, IL  
PARSIPPANY, NJ  
STAMFORD, CT  
BRUSSELS, BELGIUM

AFFILIATE OFFICE  
MUMBAI, INDIA

February 7, 2017

**By ECFS**

Marlene Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **STS Media, Inc. d/b/a FreedomPop Lifeline Broadband Provider  
Designation; Oral Ex Parte Presentation; WC Dockets 09-197; 11-42**

Dear Ms. Dortch:

On February 3, 2017, John Heitmann of Kelley Drye & Warren LLP had a meeting on behalf of STS Media, Inc. d/b/a FreedomPop (FreedomPop) with Nicholas Degani, Senior Counsel to Federal Communications Commission (Commission) Chairman Pai regarding the Wireline Competition Bureau's (Bureau) Order revoking all previously granted Lifeline Broadband Provider (LBP) designations, including the one granted to FreedomPop on December 1, 2016.<sup>1</sup>

During this discussion, I respectfully contested the Bureau's decision to revoke its LBP Designation Order granting FreedomPop LBP status.<sup>2</sup> Specifically, I raised concerns about the hasty issuance of the Revocation Order by the Bureau without any prior notice to the public

---

<sup>1</sup> See *In the Matter of Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, Order on Reconsideration, DA 17-128 (rel. Feb. 3, 2017) (Revocation Order).

<sup>2</sup> See *Telecommunications Carriers Eligible for Universal Service Support, Petitions for Designation as a Lifeline Broadband Provider*, WC Docket Nos. 09-197, 11-42, Order, DA 16-1325 (WCB rel. Dec. 1, 2016) (LBP Designation Order).

Marlene Dortch  
February 7, 2017  
Page Two

or to affected parties and without appropriate consideration by the full Commission of the novel issues of law raised. I explained that the LBP designation was granted because FreedomPop's petition was thoroughly reviewed and deemed to be noncontroversial and eligible for streamlined processing. I further noted that since the LBP designation was granted more than two months ago, FreedomPop relied on the Commission's approval of its LBP status and had continued to invest heavily in people, processes and assets necessary to launch its mobile broadband Lifeline offerings in compliance with the Commission's requirements. With the company's planned first quarter 2017 nationwide launch of Lifeline service now rendered improbable, if not impossible, by the Revocation Order, the Bureau's decision to reverse FreedomPop's LBP designation may cause substantial financial harm to FreedomPop.

I also contested the substance of the Bureau's rationale for the Revocation Order, which provided only cursory consideration of the arguments raised by FreedomPop in its response<sup>3</sup> to the National Tribal Telecommunications Association's (NTTA's) petition for reconsideration of the Bureau's LBP Designation Order awarding FreedomPop LBP status.<sup>4</sup> NTTA's Petition presented no evidence of a material error or omission that would justify reconsideration, let alone a revocation of the LBP Designation Order. I further explained that FreedomPop's petition for LBP designation did not violate the Commission's rules because the adoption of separate and specific requirements for LBP petitioners meant the general requirements for Tribal consultation could not properly be interpreted as applying in this context. This was the most reasonable reading of the rules as almost all parties who submitted petitions for LBP designation did not consult with Tribal Authorities before applying for LBP designation. The absence of Bureau notice to Tribal Authorities plainly indicates that the Bureau also did not read the Tribal consultation requirement to be applicable to LBP applicants.

I explained that, despite the above facts, FreedomPop had acknowledged NTTA's concerns in its response to the Petition and had committed to notifying and seeking approval from any relevant Tribal authorities in each state where it received — or may in the future receive — LBP designation prior to providing services to Tribal consumers in those states.

---

<sup>3</sup> Response and Opposition of STS Media, Inc. d/b/a FreedomPop to the Petition for Reconsideration of National Tribal Telecommunications Association, WC Dockets No. 09-197, 11-42 (filed Jan. 19, 2017).

<sup>4</sup> See Petition for Reconsideration of National Tribal Telecommunications Association, WC Docket Nos. 11-42, 09-197 (Jan. 3, 2017) (Petition).

**KELLEY DRYE & WARREN LLP**

Marlene Dortch  
February 7, 2017  
Page Three

I concluded by submitting that the Bureau's Revocation Order was flawed and that, at minimum, this matter deserved further consideration so that the Commission could provide a transparent and timely path forward for willing service providers looking to bring innovative and competitive broadband services to eligible Lifeline consumers caught on the wrong side of the Digital Divide.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically.

Respectfully submitted,



John J. Heitmann  
Kelley Drye & Warren LLP  
3050 K Street, NW, Suite 400  
Washington, DC 20007  
(202) 342-8400  
*Counsel to STS Media, Inc. d/b/a FreedomPop*